

SENATE BILL 187

P3
SB 830/09 – JPR

01r1205

By: **Senator Lenett**
Introduced and read first time: January 20, 2010
Assigned to: Judicial Proceedings and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland False Claims Act**

3 FOR the purpose of prohibiting certain actions constituting false claims against a
4 governmental entity; providing certain penalties for making false claims against
5 a governmental entity; requiring the counsel for a governmental entity to
6 investigate certain violations; authorizing a person other than a governmental
7 entity to file a civil action on behalf of the governmental entity against a person
8 who makes a false claim against the governmental entity; providing for certain
9 procedures to be followed in a civil action; authorizing a governmental entity to
10 proceed with the action with or without the person that initiated the action;
11 authorizing a governmental entity to choose not to proceed with the action but
12 allow the person that initiated the action to proceed; authorizing the court to
13 limit the participation of the person that initiated the action under certain
14 circumstances; authorizing a governmental entity to intervene at a later time in
15 the proceedings or to pursue alternative remedies; authorizing a governmental
16 entity to stay certain discovery under certain circumstances; providing for
17 certain damages and payments to the person that initiated the action; providing
18 for certain payments to a person that provides certain documentary materials or
19 information; providing for certain payments to the person charged under certain
20 circumstances if the person charged prevails; prohibiting an employer from
21 taking retaliatory action against an employee under certain circumstances;
22 providing certain remedies for retaliatory action; providing certain limitations
23 on civil actions filed under this Act; providing that certain civil actions may be
24 brought retroactively under certain circumstances; providing that certain guilty
25 verdicts shall stop certain defendants from denying certain elements in a
26 certain civil action; making the provisions of this Act severable; providing that a
27 certain subtitle be liberally construed; defining certain terms; and generally
28 relating to false claims against a governmental entity.

29 BY adding to
30 Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Section 12–601 through 12–609 to be under the new subtitle “Subtitle 6.
2 Maryland False Claims Act”
3 Annotated Code of Maryland
4 (2009 Replacement Volume)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – State Government**

8 **SUBTITLE 6. MARYLAND FALSE CLAIMS ACT.**

9 **12–601.**

10 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
11 **INDICATED.**

12 **(B) “CLAIM” MEANS A REQUEST OR DEMAND FOR MONEY, PROPERTY,**
13 **OR SERVICES MADE UNDER CONTRACT OR OTHERWISE, BY A CONTRACTOR,**
14 **GRANTEE, OR OTHER PERSON WITH AN ALLEGED CLAIM TO MONEY OR**
15 **PROPERTY IF:**

16 **(1) A GOVERNMENTAL ENTITY PROVIDES ANY PORTION OF THE**
17 **MONEY OR PROPERTY THAT IS REQUESTED OR DEMANDED; OR**

18 **(2) A GOVERNMENTAL ENTITY REIMBURSES THE CONTRACTOR,**
19 **GRANTEE, OR OTHER PERSON FOR ANY PORTION OF THE MONEY OR PROPERTY**
20 **THAT IS REQUESTED OR DEMANDED.**

21 **(C) “EMPLOYEE” MEANS AN INDIVIDUAL WHO PERFORMS SERVICES:**

22 **(1) FOR AND UNDER THE CONTROL AND DIRECTION OF AN**
23 **EMPLOYER; AND**

24 **(2) UNDER AN EMPLOYER’S PROMISE OR IMPLIED PROMISE OF**
25 **PAYMENT OF WAGES OR REMUNERATION.**

26 **(D) (1) “EMPLOYER” MEANS A PERSON OR GROUP OF PERSONS THAT,**
27 **ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP**
28 **OF PERSONS:**

29 **(I) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER**
30 **THE EMPLOYER’S CONTROL AND DIRECTION; AND**

1 (II) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL
2 RECEIVE WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE
3 PERFORMANCE OF THOSE SERVICES.

4 (2) “EMPLOYER” INCLUDES ANY UNIT OF A GOVERNMENTAL
5 ENTITY INVOLVED IN A NONGOVERNMENTAL FUNCTION.

6 (E) “GOVERNMENTAL ENTITY” MEANS:

7 (1) THE STATE;

8 (2) A COUNTY; OR

9 (3) A UNIT OF THE STATE OR A COUNTY GOVERNMENT.

10 (F) (1) “KNOWING” AND “KNOWINGLY” MEAN THAT A PERSON, WITH
11 RESPECT TO INFORMATION:

12 (I) HAS ACTUAL KNOWLEDGE OF INFORMATION;

13 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR
14 FALSITY OF THE INFORMATION; OR

15 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR
16 FALSITY OF THE INFORMATION.

17 (2) “KNOWING” AND “KNOWINGLY” DO NOT REQUIRE PROOF OF
18 SPECIFIC INTENT TO DEFRAUD.

19 **12-602.**

20 (A) A PERSON MAY NOT:

21 (1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED TO AN
22 OFFICER, EMPLOYEE, OR AGENT OF A GOVERNMENTAL ENTITY A FALSE OR
23 FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

24 (2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A
25 FALSE RECORD OR STATEMENT TO GET A FALSE OR FRAUDULENT CLAIM
26 APPROVED OR PAID BY A GOVERNMENTAL ENTITY;

27 (3) CONSPIRE TO DEFRAUD A GOVERNMENTAL ENTITY BY
28 GETTING A FALSE OR FRAUDULENT CLAIM APPROVED OR PAID BY A
29 GOVERNMENTAL ENTITY;

1 **(4) HAVE POSSESSION, CUSTODY, OR CONTROL OF PROPERTY OR**
2 **MONEY USED OR TO BE USED BY A GOVERNMENTAL ENTITY AND KNOWINGLY**
3 **DELIVER OR CAUSE TO BE DELIVERED LESS PROPERTY OR MONEY THAN THE**
4 **AMOUNT FOR WHICH THE PERSON RECEIVES A CERTIFICATE OR RECEIPT;**

5 **(5) BE AUTHORIZED TO MAKE OR DELIVER A DOCUMENT**
6 **CERTIFYING RECEIPT OF PROPERTY USED OR TO BE USED BY A GOVERNMENTAL**
7 **ENTITY AND KNOWINGLY MAKE OR DELIVER A RECEIPT WITHOUT KNOWING**
8 **THAT THE INFORMATION CONTAINED IN THE RECEIPT IS TRUE;**

9 **(6) KNOWINGLY BUY OR RECEIVE, AS A PLEDGE OF AN**
10 **OBLIGATION OR A DEBT, PUBLICLY OWNED PROPERTY FROM A PERSON WHO**
11 **LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;**

12 **(7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A**
13 **FALSE RECORD OR STATEMENT TO CONCEAL, AVOID, OR DECREASE AN**
14 **OBLIGATION TO PAY OR TRANSMIT MONEY OR PROPERTY TO A GOVERNMENTAL**
15 **ENTITY; OR**

16 **(8) BE A BENEFICIARY OF AN INADVERTENT SUBMISSION OF A**
17 **FALSE CLAIM TO A GOVERNMENTAL ENTITY, DISCOVER THE FALSITY OF THE**
18 **CLAIM, AND FAIL TO DISCLOSE THE FALSE CLAIM TO THE GOVERNMENTAL**
19 **ENTITY WITHIN A REASONABLE TIME AFTER THE DISCOVERY.**

20 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
21 **SUBSECTION, A PERSON WHO IS FOUND TO HAVE VIOLATED SUBSECTION (A) OF**
22 **THIS SECTION IS LIABLE TO THE GOVERNMENTAL ENTITY FOR:**

23 **(I) THREE TIMES THE AMOUNT OF DAMAGES THAT THE**
24 **GOVERNMENTAL ENTITY SUSTAINS BECAUSE OF THE ACT OF THE PERSON;**

25 **(II) A CIVIL FINE OF NOT LESS THAN \$5,000 OR MORE THAN**
26 **\$10,000; AND**

27 **(III) THE COSTS OF A CIVIL ACTION BROUGHT TO RECOVER**
28 **ANY PENALTIES OR DAMAGES UNDER THIS SUBTITLE.**

29 **(2) A COURT MAY ASSESS NOT LESS THAN TWO TIMES THE**
30 **AMOUNT OF DAMAGES THAT THE GOVERNMENTAL ENTITY SUSTAINS AS A**
31 **RESULT OF A PERSON COMMITTING A VIOLATION OF THIS SUBTITLE IF THE**
32 **COURT FINDS THAT:**

1 (I) WITHIN 30 DAYS AFTER THE DATE ON WHICH THE
2 PERSON FIRST OBTAINED THE INFORMATION, THE PERSON FURNISHED
3 OFFICIALS OF THE GOVERNMENTAL ENTITY RESPONSIBLE FOR INVESTIGATING
4 FALSE CLAIMS VIOLATIONS WITH ALL INFORMATION KNOWN TO THE PERSON
5 ABOUT THE VIOLATION;

6 (II) THE PERSON FULLY COOPERATED WITH ANY
7 INVESTIGATION OF THE VIOLATION BY THE GOVERNMENTAL ENTITY; AND

8 (III) AT THE TIME THE PERSON FURNISHED THE
9 GOVERNMENTAL ENTITY WITH THE INFORMATION ABOUT THE VIOLATION:

10 1. A CIVIL OR ADMINISTRATIVE ACTION RELATING
11 TO THE VIOLATION HAD NOT BEEN BROUGHT UNDER THIS SUBTITLE; AND

12 2. THE PERSON DID NOT HAVE ACTUAL PRIOR
13 KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION OF THE VIOLATION.

14 (C) LIABILITY UNDER THIS SECTION SHALL BE JOINT AND SEVERAL
15 FOR AN ACT COMMITTED BY TWO OR MORE PERSONS.

16 (D) THE PENALTIES PROVIDED FOR IN THIS SECTION ARE IN ADDITION
17 TO ANY OTHER REMEDIES PROVIDED FOR IN ANY OTHER LAW.

18 (E) THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR
19 STATEMENTS MADE IN ACCORDANCE WITH THE TAX – GENERAL ARTICLE AND
20 THE TAX – PROPERTY ARTICLE.

21 **12-603.**

22 (A) COUNSEL FOR THE GOVERNMENTAL ENTITY SHALL INVESTIGATE A
23 VIOLATION UNDER THIS SUBTITLE AND MAY FILE A CIVIL ACTION AGAINST A
24 PERSON WHO HAS MADE A FALSE CLAIM AGAINST THE GOVERNMENTAL ENTITY
25 IN VIOLATION OF THIS SUBTITLE.

26 (B) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE PERSON
27 AND THE GOVERNMENTAL ENTITY IN A COURT OF COMPETENT JURISDICTION
28 AGAINST A PERSON WHO HAS MADE A FALSE CLAIM AGAINST THE
29 GOVERNMENTAL ENTITY IN VIOLATION OF THIS SUBTITLE.

30 (C) (1) A CIVIL ACTION FILED UNDER THIS SUBTITLE SHALL BE
31 BROUGHT IN THE NAME OF THE GOVERNMENTAL ENTITY.

1 **(2) A CIVIL ACTION FILED UNDER THIS SUBTITLE MAY BE**
2 **DISMISSED ONLY IF THE COURT GIVES WRITTEN CONSENT, TAKING INTO**
3 **ACCOUNT THE BEST INTERESTS OF THE PARTIES INVOLVED AND THE PURPOSES**
4 **OF THIS SUBTITLE.**

5 **(D) (1) ON THE SAME DAY A PERSON FILES A COMPLAINT UNDER**
6 **SUBSECTION (B) OF THIS SECTION, THE PERSON SHALL SERVE ON THE**
7 **GOVERNMENTAL ENTITY A COPY OF THE COMPLAINT AND A WRITTEN**
8 **DISCLOSURE OF SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION**
9 **THAT THE PERSON POSSESSES, IN ACCORDANCE WITH THE PROVISIONS OF:**

10 **(I) TITLE 2 OF THE MARYLAND RULES FOR SERVING**
11 **PROCESS ON THE STATE; OR**

12 **(II) ANY OTHER APPLICABLE RULE OR LAW FOR SERVING**
13 **PROCESS ON THE GOVERNMENTAL ENTITY.**

14 **(2) THE COMPLAINT SHALL BE FILED IN CAMERA AND SHALL**
15 **REMAIN UNDER SEAL FOR AT LEAST 60 DAYS OR UNTIL THE COURT ORDERS THE**
16 **COMPLAINT SERVED ON THE DEFENDANT.**

17 **(3) THE PERSON MAY NOT SERVE THE COMPLAINT ON THE**
18 **DEFENDANT UNTIL THE COURT ORDERS THE COMPLAINT SERVED, AND THE**
19 **DEFENDANT MAY NOT BE REQUIRED TO RESPOND TO A COMPLAINT FILED**
20 **UNDER THIS SECTION UNTIL AFTER THE COMPLAINT IS:**

21 **(I) UNSEALED; AND**

22 **(II) SERVED ON THE DEFENDANT IN ACCORDANCE WITH**
23 **TITLE 2 OF THE MARYLAND RULES.**

24 **(E) (1) WITHIN 60 DAYS AFTER THE GOVERNMENTAL ENTITY**
25 **RECEIVES A COMPLAINT AND MATERIAL EVIDENCE AND INFORMATION SERVED**
26 **IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE GOVERNMENTAL**
27 **ENTITY MAY INTERVENE AND PROCEED WITH THE CIVIL ACTION.**

28 **(2) (I) FOR GOOD CAUSE SHOWN, THE GOVERNMENTAL ENTITY**
29 **MAY REQUEST THAT THE COURT ORDER AN EXTENSION OF THE 60-DAY PERIOD**
30 **FOR UP TO 90 DAYS.**

31 **(II) THE COMPLAINT SHALL REMAIN UNDER SEAL DURING**
32 **ANY EXTENSION OF THE PERIOD FOR THE GOVERNMENTAL ENTITY TO**
33 **INTERVENE.**

1 **(3) BEFORE THE LATER OF ANY EXPIRATION OF THE 60-DAY**
2 **PERIOD OR AN EXTENSION OF THE 60-DAY PERIOD, THE GOVERNMENTAL**
3 **ENTITY SHALL:**

4 **(I) PROCEED WITH THE CIVIL ACTION IN A COURT OF**
5 **COMPETENT JURISDICTION WITHIN THE GOVERNMENTAL ENTITY; OR**

6 **(II) NOTIFY THE COURT THAT IT WILL NOT PROCEED WITH**
7 **THE CIVIL ACTION.**

8 **(4) IF THE GOVERNMENTAL ENTITY NOTIFIES THE COURT THAT**
9 **IT WILL NOT PROCEED WITH AN ACTION, THE PERSON WHO INITIATED THE**
10 **ACTION MAY PROCEED WITH THE ACTION.**

11 **(F) IF A PERSON BRINGS A VALID CIVIL ACTION UNDER THIS SECTION,**
12 **NO PERSON OTHER THAN THE GOVERNMENTAL ENTITY MAY INTERVENE OR**
13 **BRING A RELATED ACTION BASED ON THE FACTS UNDERLYING THE PENDING**
14 **CIVIL ACTION.**

15 **12-604.**

16 **(A) (1) IF THE GOVERNMENTAL ENTITY PROCEEDS WITH A CIVIL**
17 **ACTION UNDER THIS SUBTITLE, IT HAS THE PRIMARY RESPONSIBILITY FOR**
18 **PROCEEDING WITH THE ACTION AND IS NOT BOUND BY ANY ACT OF THE PERSON**
19 **WHO INITIATED THE ACTION.**

20 **(2) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE**
21 **PERSON WHO INITIATED THE CIVIL ACTION MAY CONTINUE AS A PARTY TO THE**
22 **ACTION.**

23 **(B) (1) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
24 **INITIATING THE CIVIL ACTION, THE GOVERNMENTAL ENTITY MAY PETITION THE**
25 **COURT TO DISMISS AN ACTION IF:**

26 **(I) THE PERSON INITIATING THE ACTION IS NOTIFIED BY**
27 **THE GOVERNMENTAL ENTITY OF THE FILING OF THE MOTION TO DISMISS; AND**

28 **(II) THE COURT PROVIDES THE PERSON INITIATING THE**
29 **ACTION WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION TO DISMISS.**

30 **(2) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
31 **INITIATING THE CIVIL ACTION, IF THE COURT DETERMINES AFTER A HEARING**
32 **THAT A PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER**

1 THE CIRCUMSTANCES, THE GOVERNMENTAL ENTITY MAY SETTLE A CIVIL
2 ACTION UNDER THIS SECTION.

3 (C) (1) THE COURT MAY IMPOSE LIMITATIONS ON THE
4 PARTICIPATION OF THE PERSON INITIATING A CIVIL ACTION UNDER THIS
5 SECTION IF:

6 (I) THE GOVERNMENTAL ENTITY SHOWS THAT THE
7 PERSON'S UNRESTRICTED PARTICIPATION IN THE ACTION WOULD:

8 1. INTERFERE WITH OR UNDULY DELAY THE
9 GOVERNMENTAL ENTITY IN ITS PURSUIT OF THE ACTION; OR

10 2. BE REPETITIOUS, IRRELEVANT, OR HARASSING TO
11 THE PERSON CHARGED WITH VIOLATING THIS SUBTITLE; OR

12 (II) THE PERSON CHARGED WITH VIOLATING THIS SUBTITLE
13 SHOWS THAT UNRESTRICTED PARTICIPATION BY THE PERSON INITIATING THE
14 ACTION WOULD HARASS OR CAUSE THE PERSON CHARGED AN UNDUE BURDEN
15 OR UNNECESSARY EXPENSE.

16 (2) LIMITATIONS IMPOSED BY THE COURT MAY INCLUDE:

17 (I) A LIMITATION ON THE NUMBER OF WITNESSES THE
18 PERSON MAY CALL TO TESTIFY;

19 (II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF
20 WITNESSES CALLED BY THE PERSON;

21 (III) A LIMITATION ON THE PERSON'S CROSS-EXAMINATION
22 OF WITNESSES; OR

23 (IV) OTHERWISE LIMITING THE PARTICIPATION BY THE
24 PERSON THAT INITIATED THE CIVIL ACTION.

25 (D) (1) IF THE GOVERNMENTAL ENTITY ELECTS NOT TO PROCEED
26 WITH THE CIVIL ACTION, THE PERSON INITIATING THE ACTION HAS THE RIGHT
27 TO PROCEED WITH THE ACTION.

28 (2) NOTWITHSTANDING THE GOVERNMENTAL ENTITY'S ELECTION
29 NOT TO PROCEED, IF THE GOVERNMENTAL ENTITY REQUESTS, THE COURT
30 SHALL ORDER THAT THE GOVERNMENTAL ENTITY BE SERVED AT ITS OWN
31 EXPENSE WITH COPIES OF:

1 (I) ALL PLEADINGS FILED IN THE CIVIL ACTION; AND

2 (II) ALL DEPOSITION TRANSCRIPTS.

3 (3) WITHOUT LIMITING THE STATUS AND RIGHTS OF THE PERSON
4 INITIATING THE CIVIL ACTION, THE COURT MAY ALLOW THE GOVERNMENTAL
5 ENTITY TO INTERVENE AT A LATER DATE ON A SHOWING OF GOOD CAUSE.

6 (E) (1) WHETHER OR NOT THE GOVERNMENTAL ENTITY PROCEEDS
7 WITH A CIVIL ACTION, ON A SHOWING BY THE GOVERNMENTAL ENTITY THAT
8 CERTAIN ACTIONS OF DISCOVERY BY THE PERSON INITIATING THE ACTION
9 WOULD INTERFERE WITH THE GOVERNMENTAL ENTITY'S INVESTIGATION OR
10 PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME
11 FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE
12 THAN 60 DAYS.

13 (2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER
14 SHOWING THAT THE GOVERNMENTAL ENTITY HAS PURSUED THE CRIMINAL OR
15 CIVIL INVESTIGATION OR PROCEEDINGS WITH REASONABLE DILIGENCE AND
16 THAT ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL INTERFERE WITH
17 THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDING.

18 (3) THE SHOWINGS UNDER THIS SUBSECTION SHALL BE IN
19 CAMERA.

20 (F) (1) INSTEAD OF PROCEEDING WITH A CIVIL ACTION, THE
21 GOVERNMENTAL ENTITY MAY PURSUE AN ALTERNATIVE REMEDY AVAILABLE TO
22 THE GOVERNMENTAL ENTITY, INCLUDING ANY APPROPRIATE ADMINISTRATIVE
23 PROCEEDING TO CONSIDER A CIVIL MONEY PENALTY.

24 (2) IF THE GOVERNMENTAL ENTITY SEEKS AN ALTERNATIVE
25 REMEDY IN ANOTHER PROCEEDING, THE PERSON INITIATING THE CIVIL ACTION
26 SHALL HAVE THE SAME RIGHTS IN THE ALTERNATIVE PROCEEDING AS THE
27 PERSON WOULD HAVE HAD IF THE ACTION HAD CONTINUED UNDER THIS
28 SUBTITLE.

29 (3) A FINDING OF FACT OR CONCLUSION OF LAW MADE IN ANY
30 ALTERNATIVE PROCEEDING THAT HAS BECOME FINAL SHALL BE CONCLUSIVE
31 ON ALL PARTIES AS IF AN ACTION HAD BEEN BROUGHT UNDER THIS SUBTITLE.

32 12-605.

33 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF THE
34 GOVERNMENTAL ENTITY PROCEEDS WITH AN ACTION BROUGHT BY A PERSON

1 INITIATING A CIVIL ACTION UNDER THIS SUBTITLE AND THE GOVERNMENTAL
2 ENTITY PREVAILS BY A PREPONDERANCE OF THE EVIDENCE, THE COURT SHALL
3 AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS:

4 (I) NOT LESS THAN 15% AND NOT MORE THAN 25% OF:

5 1. ANY DAMAGES RECOVERED IN THE ACTION THAT
6 RESULT FROM THE INFORMATION CONTAINED IN THE ORIGINAL ACTION
7 BROUGHT BY THE PERSON; OR

8 2. ANY SETTLEMENT OF THE CLAIM; AND

9 (II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT
10 THAT THE PERSON CONTRIBUTED TO THE FINAL RESOLUTION OF THE CIVIL
11 ACTION.

12 (2) IF A CIVIL ACTION IS ONE THAT THE COURT FINDS IS BASED
13 PRIMARILY ON SPECIFIC DOCUMENTARY MATERIALS OR INFORMATION
14 DISCLOSED BY A PERSON OTHER THAN THE PERSON WHO INITIATED THE
15 ACTION, THE COURT MAY MAKE AN AWARD THAT:

16 (I) THE COURT CONSIDERS APPROPRIATE; AND

17 (II) DOES NOT EXCEED 10% OF THE PROCEEDS OF THE
18 ACTION.

19 (3) AWARDS UNDER PARAGRAPHS (1) AND (2) OF THIS
20 SUBSECTION SHALL BE PAID OUT OF THE PROCEEDS OF THE ACTION.

21 (4) IN ADDITION TO THE AMOUNT PROVIDED UNDER
22 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A COURT SHALL AWARD A
23 PERSON INITIATING AN ACTION:

24 (I) AN AMOUNT FOR REASONABLE EXPENSES THAT THE
25 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND

26 (II) REASONABLE ATTORNEY'S FEES AND COSTS.

27 (5) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER
28 PARAGRAPH (4) OF THIS SUBSECTION SHALL BE AWARDED AGAINST THE
29 PERSON FOUND TO HAVE VIOLATED THIS SUBTITLE.

30 (B) (1) IF THE GOVERNMENTAL ENTITY DOES NOT PROCEED WITH AN
31 ACTION UNDER THIS SUBTITLE AND THE PERSON INITIATING THE ACTION

1 PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE ACTION AN
2 AMOUNT THAT IS:

3 (I) NOT LESS THAN 25% OR MORE THAN 30% OF THE
4 PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM;

5 (II) REASONABLE FOR COLLECTING THE CIVIL PENALTY
6 AND DAMAGES ON THE GOVERNMENTAL ENTITY'S BEHALF; AND

7 (III) PAID OUT OF THE PROCEEDS.

8 (2) IN ADDITION TO THE AMOUNT PROVIDED UNDER PARAGRAPH
9 (1) OF THIS SUBSECTION, A COURT SHALL AWARD A PERSON INITIATING AN
10 ACTION:

11 (I) AN AMOUNT FOR REASONABLE EXPENSES THAT THE
12 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND

13 (II) REASONABLE ATTORNEY'S FEES AND COSTS.

14 (3) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER
15 PARAGRAPH (2) OF THIS SUBSECTION SHALL BE AWARDED AGAINST THE
16 PERSON FOUND TO HAVE VIOLATED THIS SUBTITLE.

17 (C) (1) WHETHER OR NOT THE GOVERNMENTAL ENTITY PROCEEDS
18 WITH A CIVIL ACTION UNDER THIS SUBTITLE, IF A COURT FINDS THAT A CIVIL
19 ACTION WAS BROUGHT BY A PERSON WHO DELIBERATELY PARTICIPATED IN THE
20 VIOLATION ON WHICH THE ACTION WAS BASED, THE COURT MAY, TO THE
21 EXTENT IT CONSIDERS APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS
22 OF THE ACTION THAT THE PERSON OTHERWISE WOULD HAVE RECEIVED UNDER
23 THIS SECTION.

24 (2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON
25 INITIATING THE CIVIL ACTION, THE COURT SHALL CONSIDER:

26 (I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
27 LITIGATION; AND

28 (II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE
29 VIOLATION.

30 (D) (1) IF A PERSON INITIATING A CIVIL ACTION UNDER THIS
31 SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM A VIOLATION
32 OF THIS SUBTITLE BEFORE A FINAL DETERMINATION OF THE ACTION, THE

1 COURT SHALL DISMISS THE PERSON FROM THE ACTION SO THAT THE PERSON
2 DOES NOT RECEIVE ANY SHARE OF THE PROCEEDS OF THE ACTION.

3 (2) THE DISMISSAL OF THE PERSON INITIATING THE ACTION MAY
4 NOT PREJUDICE THE RIGHT OF THE GOVERNMENTAL ENTITY OR OF ANY OTHER
5 PERSON TO CONTINUE THE ACTION.

6 (E) IF A PERSON INITIATING A CIVIL ACTION UNDER THIS SUBTITLE IS
7 CONVICTED OF CRIMINAL CONDUCT ARISING FROM A VIOLATION OF THIS
8 SUBTITLE AFTER THE PROCEEDS FROM THE ACTION ARE AWARDED TO THAT
9 PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS
10 PREVIOUSLY AWARDED.

11 (F) A COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND
12 EXPENSES TO A PERSON CHARGED WITH MAKING A FALSE CLAIM AND AGAINST
13 THE PERSON INITIATING THE ACTION IF:

14 (1) THE DEFENDANT PREVAILS IN THE ACTION;

15 (2) THE COURT FINDS THAT THE CLAIM OF THE PERSON
16 INITIATING THE ACTION WAS CLEARLY FRIVOLOUS, VEXATIOUS, OR BROUGHT
17 PRIMARILY FOR PURPOSES OF HARASSMENT; AND

18 (3) THE GOVERNMENTAL ENTITY DID NOT PROCEED WITH THE
19 ACTION.

20 (G) THE GOVERNMENTAL ENTITY IS NOT LIABLE FOR EXPENSES THAT A
21 PERSON INCURS BY BRINGING AN ACTION UNDER THIS SUBTITLE.

22 **12-606.**

23 (A) A COURT MAY NOT HAVE JURISDICTION OVER AN ACTION BROUGHT
24 UNDER THIS SUBTITLE AGAINST A SENIOR EXECUTIVE BRANCH OFFICIAL OF
25 THE GOVERNMENTAL ENTITY, A MEMBER OF THE GOVERNMENTAL ENTITY'S
26 LEGISLATIVE BRANCH, OR A MEMBER OF THE JUDICIARY, IF THE ACTION IS
27 BASED ON EVIDENCE OR INFORMATION KNOWN TO THE GOVERNMENTAL ENTITY
28 WHEN THE ACTION WAS BROUGHT.

29 (B) A PERSON MAY NOT BRING AN ACTION UNDER THIS SUBTITLE THAT
30 IS BASED ON AN ALLEGATION OR TRANSACTION THAT IS THE SUBJECT OF A
31 CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN
32 WHICH THE GOVERNMENTAL ENTITY IS ALREADY A PARTY.

1 (C) ON THE MOTION OF THE COUNSEL FOR THE GOVERNMENTAL
2 ENTITY, THE COURT MAY DISMISS A CLAIM IF THE ELEMENTS ALLEGED IN THE
3 CLAIM HAVE BEEN PUBLICLY DISCLOSED IN THE NEWS MEDIA OR IN A PUBLICLY
4 DISSEMINATED GOVERNMENTAL REPORT AT THE TIME THE COMPLAINT IS
5 FILED.

6 **12-607.**

7 (A) AN EMPLOYEE WHO IS DISCHARGED, DEMOTED, SUSPENDED,
8 THREATENED, HARASSED, OR OTHERWISE DISCRIMINATED AGAINST IN THE
9 TERMS AND CONDITIONS OF EMPLOYMENT BECAUSE OF LAWFUL ACTS DONE BY
10 THE EMPLOYEE IN FURTHERANCE OF A CIVIL ACTION UNDER THIS SUBTITLE
11 SHALL BE ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE EMPLOYEE
12 WHOLE.

13 (B) RELIEF SHALL INCLUDE:

14 (1) REINSTATEMENT WITH THE SAME SENIORITY STATUS THE
15 EMPLOYEE WOULD HAVE HAD BUT FOR THE DISCRIMINATION;

16 (2) TWO TIMES THE AMOUNT OF BACK PAY;

17 (3) INTEREST ON BACK PAY; AND

18 (4) COMPENSATION FOR SPECIAL DAMAGES SUSTAINED AS A
19 RESULT OF THE DISCRIMINATION, INCLUDING LITIGATION COSTS, REASONABLE
20 ATTORNEY'S FEES, AND WHERE APPROPRIATE, PUNITIVE DAMAGES.

21 (C) AN EMPLOYEE MAY BRING AN ACTION IN A COURT OF COMPETENT
22 JURISDICTION FOR RELIEF PROVIDED IN THIS SECTION.

23 **12-608.**

24 (A) A CIVIL ACTION UNDER THIS SUBTITLE MAY NOT BE BROUGHT:

25 (1) MORE THAN 10 YEARS AFTER THE DATE ON WHICH THE
26 VIOLATION OCCURS; OR

27 (2) MORE THAN 3 YEARS AFTER THE DATE WHEN FACTS
28 MATERIAL TO THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD
29 HAVE BEEN KNOWN BY THE OFFICIAL OF THE GOVERNMENTAL ENTITY
30 CHARGED WITH THE RESPONSIBILITY FOR ACTING UNDER THE
31 CIRCUMSTANCES.

1 **(B) IN AN ACTION BROUGHT UNDER THIS SUBTITLE, THE**
2 **GOVERNMENTAL ENTITY OR THE PERSON INITIATING THE ACTION SHALL PROVE**
3 **ALL ESSENTIAL ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, BY**
4 **A PREPONDERANCE OF THE EVIDENCE.**

5 **(C) A CIVIL ACTION UNDER THIS SUBTITLE MAY BE BROUGHT FOR**
6 **ACTIVITY BEFORE OCTOBER 1, 2010, IF THE LIMITATION PERIOD SET UNDER**
7 **SUBSECTION (A) OF THIS SECTION HAS NOT LAPSED.**

8 **(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GUILTY**
9 **VERDICT RENDERED IN A CRIMINAL PROCEEDING CHARGING FALSE**
10 **STATEMENTS OR FRAUD, WHETHER ON A VERDICT AFTER TRIAL OR ON A PLEA**
11 **OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM**
12 **DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN A CIVIL ACTION THAT**
13 **INVOLVES THE SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING AND**
14 **THAT IS BROUGHT UNDER THIS SUBTITLE.**

15 **12-609.**

16 **(A) A REMEDY PROVIDED UNDER THIS SUBTITLE IS IN ADDITION TO**
17 **ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF PROVIDED UNDER ANY**
18 **OTHER APPLICABLE STATUTE OR REGULATION.**

19 **(B) IF A PROVISION OF THIS SUBTITLE OR THE APPLICATION OF THIS**
20 **SUBTITLE TO ANY PERSON OR CIRCUMSTANCE IS HELD TO BE**
21 **UNCONSTITUTIONAL, THE REMAINDER OF THIS SUBTITLE AND THE**
22 **APPLICATION OF THE PROVISION TO OTHER PERSONS OR CIRCUMSTANCES MAY**
23 **NOT BE AFFECTED.**

24 **(C) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED AND APPLIED TO**
25 **PROMOTE PUBLIC INTEREST.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2010.